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Remarks

Claims 1-10 and 32-35 are pending in this Application.. Claims 11-31 have been canceled. By this Amendment, claims 1, 6, 32 and 33 have been amended. As a result, claims 1-10, 32-35 are at issue in this Application.

Claim Rejections - 35 U.S.C. §102

On page 3 of the Office Action, the Examiner has rejected claims 32 and 35 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,553,353 to Simpson ("Simpson"). Applicant traverses this rejection.

The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention. *Ex Parte Levy*, 17 U.S.P.Q. 2d 1461 (BPAI 1990); *In re Lange*, 209 U.S.P.Q. 288 (CCPA 1981) (in order to anticipate, the reference must describe or disclose all of the limitations of the claims). It is well-settled law that the burden of establishing a prima facie case of anticipation resides with the Patent & Trademark Office. *Ex Parte Skinner*, 2 U.S.P.Q. 2d 1788 (BPAI 1986).

A. Claim 32

Amended independent claim 32 is directed to a tilt-latch for a sash window disposed within opposed guide rails on a master frame, the tilt-latch comprising: a housing adapted to be supported by the top rail, the housing having an outward end opening; a latch bolt disposed within the housing, the latch bolt having a nose adapted for engaging a respective one of the guide rails an actuator; a post located on one of the latch bolt and the actuator and a notch located on the other of the latch bolt and actuator, the post and notch being positioned such that when the latch bolt is fully extended

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through the outward end opening, an angled portion of the nose is positioned within the housing.

Simpson does not anticipate amended independent claim 32 because it does not disclose or suggest that when *a latch bolt is fully extended through the outward end opening of the housing, an angled portion of the nose is positioned within the housing*. Referring to Figs. 2 and 3 of Simpson, when the latch bolt 44 is fully extended, the angled portion 82 of the nose 81 is positioned beyond, not within the housing 42. Therefore, Simpson does not disclose or suggest all limitations of amended claim 32 and, as a result, this claim is allowable over the art of record.

B. Claim 35

Independent claim 35 is directed to a tilt-latch for a sash window disposed within opposed guide rails on a master frame, the tilt-latch comprising: a housing adapted to be supported by the top rail, the housing having an outward end opening; a latch bolt disposed within the housing, the latch bolt having a nose adapted for engaging a respective one of the guide rails, the nose having a beveled surface; an actuator; and, a post located on one of the latch bolt and the actuator and a notch located on the other of the latch bolt and actuator, the post and notch being positioned such that when the latch bolt is fully extended through the outward end opening, a portion of the beveled surface of the nose is positioned within the housing.

Simpson does not anticipate independent claim 35 because it does not disclose or suggest that when *a latch bolt is fully extended through the outward end opening of the housing, a portion of the beveled surface of the nose is positioned within the housing*. Consistent with that explained above for claim 32, Simpson's angled or beveled 82 portion of the nose 81 is positioned entirely beyond, not within, the housing 42. As a result, Simpson does not disclose or suggest all limitations of claim 35 and the claim is allowable over the art of record.

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Claim Rejections - 35 U.S.C. §103

On page 4 of the Office Action, the Examiner rejected claims 1-10, 33 and 34 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,553,353 to Simpson ("Simpson") as applied to claims 32 and 35. Applicant traverses this rejection.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all of the claim limitations. The examiner bears the initial burden on factually supporting any prima facie conclusion of obviousness. *See* MPEP § 2142; *In re Vaeck*, 20 USPQ.2d 1438 (Fed. Cir. 1991).

A. Claims 1-5

Amended independent claim 1 is directed to a tilt-latch for a sash window disposed within opposed guide rails on a master frame, the tilt-latch comprising: a housing adapted to be supported by the top rail, the housing having an outward end opening; a latch bolt disposed within the housing, the latch bolt having a nose adapted for engaging a respective one of the guide rails, the latch bolt further having an integral post extending from the latch bolt, the latch bolt having an extended position and a retracted position; and, an actuator having a notch positioned substantially at a mid-portion of the actuator, wherein the post is received in the notch and wherein only the nose extends past the outward end opening when the latch bolt is in the extended position.

Simpson does not render amended independent claim 1 obvious because it does not suggest all limitations of the claim. First, Simpson does not suggest *a latch bolt further having an integral post extending from the latch bolt*. Referring to Fig. 3 of Simpson, the Examiner has focused on the

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spaced posts 106 that depend from the actuator 48, however, the actuator 48 and the posts 106 are separable from the latch bolt 44. Therefore, the posts 106 are not integral to the latch bolt 44 as required by claim 1. Second, Simpson does not suggest *a latch bolt wherein in the extended position, only the nose extends past the outward end opening of the housing*. As shown in Figs. 2 and 3, in the extended position, the ovate slot 83 of the bolt 44 extends past the outer end 68 of the housing 42, as well as the outer edge 99 of the header 28. Third, Simpson does not suggest *an actuator having a notch positioned substantially at a mid-portion of the actuator*. On page 4 of the Office Action, the Examiner construed the notch 95 in the latch bolt 44 as the claimed actuator notch. Figs. 3 and 4 clearly show that the notch 95 is positioned in the rear or aft end 94 of the latch bolt 44, not at a mid-portion as required by the claim. For each of these reasons, Simpson does not render amended claim 1 obvious, and the claim is allowable over the art of record.

Claims 2, 4 and 5 depend from independent claim 1 and thereby require all of the limitations of that claim. For the reasons stated with respect to claim 1, claims 2, 4 and 5 are allowable and are not rendered obvious by Simpson.

Claim 3 depends from claim 1 and further requires a finger depending from a lower portion of the actuator, wherein the finger is positioned between the notch and the control button. The Examiner has not identified any structure in Simpson corresponding to the claimed finger. The posts 106 depending from the actuator 48 cannot now be construed to be the claimed finger since the Examiner previously utilized the posts 106 to support an obviousness rejection. For this reason and the reasons identified above for independent claim 1, dependent claim 3 is not rendered obvious.

B. Claims 6-10

Amended independent claim 6 is directed to a tilt-latch for a sash window disposed within

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opposed guide rails on a master frame, the sash window comprises a top rail, a base and two stiles collectively connected together at their extremities, the tilt-latch adapted for releaseably securing the sash window to the master frame, the tilt-latch comprising: a housing adapted to be supported by the top rail, the housing having an outward end opening; a latch bolt disposed within the housing, the latch bolt having a nose adapted for engaging a respective one of the guide rails, the latch bolt further having a post extending from the latch bolt, the latch bolt having an extended position and a retracted position; and, an actuator having a notch positioned substantially at a mid-portion of the actuator, wherein the post is received in the notch and wherein an angled portion of the nose is disposed within the housing when the latch bolt is in the extended position.

Simpson does not render amended independent claim 6 obvious because it does not suggest all limitations of the claim. First, Simpson does not suggest that *when the latch bolt is in the extended position, an angled portion of the nose is disposed within the housing*. As shown in Figs. 2 and 3, in the extended position, the angled portion 82 of the nose 81 is positioned beyond, not within, the housing 42. Second, Simpson does not suggest *an actuator having a notch positioned substantially at a mid-portion of the actuator*. As explained above for claim 1, Figs. 3 and 4 clearly show that the notch 95 (as construed by the Examiner) is positioned in the rear or aft end 94 of the latch bolt 44, not at a mid-portion of the actuator as required by the claim. For each of these reasons, Simpson does not render amended claim 6 obvious, and the claim is allowable over the art of record.

Claims 7, 9 and 10 depend from independent claim 6 and thereby require all of the limitations of that claim. For the reasons stated with respect to claim 6, claims 7, 9 and 10 are allowable and are not rendered obvious by Simpson.

Claim 8 depends from claim 6 and further requires a finger depending from a lower portion

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of the actuator, wherein the finger is positioned between the notch and the control button. The Examiner has not identified any structure in Simpson corresponding to the claimed finger. The posts 106 depending from the actuator 48 cannot now be construed to be the claimed finger since the Examiner previously utilized the posts 106 to support an obviousness rejection. For this reason and the reasons identified above for independent claim 6, dependent claim 8 is not rendered obvious.

C. Claim 33

Amended independent claim 33 is directed to a tilt-latch for a sash window disposed within opposed guide rails on a master frame, the tilt-latch comprising: a housing adapted to be supported by the top rail, the housing having an outward end opening; a latch bolt disposed within the housing, the latch bolt having a nose adapted for engaging a respective one of the guide rails, the nose having a beveled surface, the latch bolt further having a post extending from the latch bolt, the latch bolt having an extended position and a retracted position; and, an actuator having a notch, wherein the post is received in the notch wherein only the beveled surface of the nose extends past the outward end opening when the latch bolt is in the extended position.

Simpson does not render amended claim 33 obvious because it does not suggest that when *the latch bolt is in the extended position, only the beveled surface of the nose extends past the outward end opening of the housing.* As explained above and as shown in Figs. 2 and 3, when Simpson's latch bolt 44 is in the extended position, the ovate slot 83 of the bolt 44 is positioned beyond the housing 42. Consequently, Simpson does not render amended claim 33 obvious, and the claim is allowable over the art of record.

D. Claim 34

Independent claim 34 is directed to a tilt-latch for a sash window disposed within opposed

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guide rails on a master frame, the tilt-latch comprising: a housing adapted to be supported by the top rail, the housing having an outward end opening; a latch bolt disposed within the housing, the latch bolt having a nose adapted for engaging a respective one of the guide rails, the nose having a beveled surface, the latch bolt further having a post extending from the latch bolt, the latch bolt having an extended position and a retracted position; and, an actuator having a notch, wherein the post is received in the notch wherein a portion of the beveled surface of the nose is disposed within the housing when the latch bolt is in the extended position.

Simpson does not render amended claim 34 obvious because it does not suggest *when the latch bolt is in the extended position, a portion of the beveled surface of the nose is disposed within the housing*. Consistent with that explained above and as shown in Figs. 2 and 3, Simpson's angled or beveled 82 portion of the nose 81 is positioned entirely beyond, not within, the housing 42. As a result, Simpson does not suggest all limitations of claim 34 and the claim is allowable.

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CONCLUSION

In view of the foregoing, Applicant believes the Application is in a condition for allowance, and respectfully requests early notice of the same. Applicant requests that the Examiner call the undersigned attorney if the Examiner has any questions concerning this Reply, or if it will expedite the progress of this Application.

Respectfully submitted,

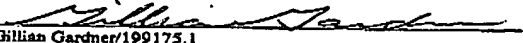
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this document is being facsimile transmitted to the Patent and Trademark Office, to the attention of Examiner Gregory J. Strimbu, Art Unit No. 3634, to Fax No. 703/872-9306 on June 24, 2004.


Gillian Gardner/199175.1